THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.NO.4478 OF 2006

BETWEEN:

G.V.Prasada Rao son of late G.V.Subba Rao

…Petitioner

and

State of Andhra Pradesh, rep. by its Principal Secretary to Government, Revenue Department, Hyderabad and two(2) others.

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.NO.4478 OF 2006

ORAL ORDER

The writ petition is filed seeking invalidation of G.O.Ms.No.657 dated.08-10-2001 issued by the 1st respondent, which is a prohibitory order issued in purported exercise of powers under Section.22-A of the Registration Act,1908(for short "the Act") prohibiting the registration of properties in Sy.Nos.1196,1197,1027 and

1028,Waltair ward, Visakhapatnam. The petitioner assails this prohibitory order issued by the State Government, on several grounds. Sec.22-A of the Act incorporated into the Federal Legislation, the Registration Act, 1908, by the Andhra Pradesh Act 4 of 1999, has been declared unconstitutional by this Court in W.P.No.14099 of 2003 and batch dated.07-12-2005 following the judgment of the Supreme Court in the **State of Rajasthan and Others Vs.Basant Nahata()**. The 3rd respondent therefore cannot decline registration of any sale deeds presented by the petitioner seeking registration of his property in flat No.16, Seashells Enclave, Waltair Uplands, Visakhapatnam on the ground that the property situated in Sy.No.1027 in Waltair Ward is included in a prohibitory order issued by the Government in G.O.Ms.No.657 dated.08-10-2001, is a notification issued by the Government under Section.22-A of the Act.

Sri D.V.Sitharam Murthy learned counsel for the petitioner also urges that the 3rd respondent is refusing even to issue a valuation certificate as required under Rule.3 of Andhra Pradesh Court Fees and Suits Valuation Rules, 1975 on the ground that the land is situated in a prohibited area, prohibited for Registration under G.O.Ms.No.657.

As the Sec.22-A of the Act is declared unconstitutional, the notification issued by the Government is rendered *void ab initio*. There is therefore no legal impediment to the registration of the document presented by the petitioner if it is otherwise in order and complies with the Rules in this regard.

In the circumstances, the writ petition is disposed of directing the 3rd respondent to consider the document presented by the petitioner for registration. If for any other reason the 3rd respondent is disinclined to register the document, the 3rd respondent shall issue a written reasoned order setting out the reasons for refusing the registration, within 24 hours from the date of presentation of the document for registration. In the circumstances there shall be no order as to costs.

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GODA RAGHURAM,J

17TH MARCH 2006

*TSNR